# APPENDIX A.

## Opinion Below.

Before Bastian, *Senior Circuit Judge*, Burger and Wright, *Circuit Judges*.

Burger, *Circuit Judge*: These appeals challenge the District Court's dismissal of objections filed by the Brotherhood of Railroad Trainmen (BRT) to Arbitration Board 282's answers of certain questions submitted to it by the BRT.

Little background need be set out since this case is merely the latest manifestation of a litigation syndrome that seems to keep the railroads and various governmental entities in the courts on an ancient issue.[1] It is sufficient here to note that, to head off a threatened national strike in 1963, Congress directed that unresolved issues be submitted to binding arbitration,[2] which was to be conducted pursuant to sections 7, 8, and 9 of the Railway Labor Act;[3] that Arbitration Board 282 made its Award later in that year; and that the portion of the Award here relevant delegated to local Special Boards of Adjustment resolution of disputes over the size and composition of train crews ("crew consist").

The appeal is directed at two questions. The first inquired of Arbitration Board 282 whether a carrier violated the terms of the Award by reducing its crews prior to

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[1] The dispute is chronicled in Bhd. of Locomotive Firemen & Enginemen v. Chicago, Burlington & Quincy R. R. Co., 225 F. Supp. 11 (D. D. C.), *aff'd*, 118 U. S. App. D. C. 100, 331 F. 2d 1020, *cert. denied*, 377 U. S. 918 (1964), and in Bhd. of Railroad Trainmen v. Akron & Barberton Belt R. R. Co., No. 20,152, D. C. Cir., May 12, 1967.

[2] Joint Resolution, Public Law 88-108, 77 Stat. 132 (1963).

[3] 44 Stat. 582, 584, 585 (1926), as amended, 45 U. S. C., §§ 157, 158, 159 (1964).

disposition of the matter by the local Special Board. Board 282's Award had remanded the issue of "crew consist" to the local Special Boards with the requirement that "no change shall be made in the scope or application of rules in effect immediately prior to the effective date of this Award, whether established by agreement, interpretation, or practice. . . ." The BRT complains that Board 282 answered its question by finding: "the Award bars changes in the scope or application of 'rules' in effect immediately prior to the effective date of this Award requiring a stipulated number of trainmen, whether such 'rules' were established by agreement, interpretation or practice. Where no such 'rule' was in effect immediately prior to the effective date of the Award, this bar does not apply." There is obviously no difference between the Award and the Board's interpretation of it; but Appellant also argues that the courts had interpreted the Award differently and that this construction was necessary to prevent the Award from failing to resolve the controversy and thus be contrary to the instruction of Congress.

In his opinion affirming the validity of Arbitration Board 282's Award, the District Judge summarized the Board's action by saying "what the Board did was to bar any changes for the time being. . . ."[4] Appellant

[4] Bhd. of Locomotive Firemen & Enginemen v. Chicago, Burlington & Quincy R. R. Co., *supra* n. 1, 225 F. Supp. at 20. Appellant points also to similar statements by two other judges. In one, the opinion was expressly dealing with a change in a rule or in rule application, and statements that no change could be made were shorthand for "change in rule or in rule application." Chicago, Milwaukee, St. Paul & Pacific R. R. Co. v. Order of Ry. Conductors & Brakemen, 229 F. Supp. 178 (W. D. Wash. 1964). In the other, Judge Miller, sitting as a District Judge, stated that Judge Holtzoff had determined that no changes should be made in "crew consist" and noted that this had been directed only at the issue of the finality of Board 282's disposition; Judge Miller expressly left open the question of the meaning of the Award and directed that Board 282 first decide the question. Certain Carriers, etc. Misc. No. 40-63, D. D. C. Aug. 6, 1965.

claims this forbade any changes irrespective of whether a rule was in existence. This argument is at best disingenuous; read in context it is clear beyond doubt that the District Judge was merely summarizing the Award preparatory to meeting the challenge that it was not a final disposition of the issues and thus violative of the enabling statute. Whether the railroad could make changes if there were no rule or practice in effect was irrelevant to the issue. The District Court decided that the Award adequately disposed of the issues and was valid; his decision was not premised on any particular definition of or comment concerning the Award.

Appellant's second major contention is that the Special Boards of Adjustment, like Arbitration Board 282, were to operate pursuant to the Railway Labor Act; specifically, it urges that they were required to take all evidence under oath and to keep a transcript of their proceedings. Its argument is twofold. It claims first that the statute setting up compulsory arbitration subject to the Railway Labor Act established the same standard for the local Special Boards of Adjustment and secondly that the Arbitration Board erred in interpreting its Award by saying that it did not include this requirement. We need not consider the merits of these claims except to point out that the statutory argument is now precluded as being *res judicata* by virtue of the earlier review of the Award[5] and that our review of the Board's answer to

[5] In the action to impeach the Award, to which the BRT was a party, the unions claimed that the Award did not satisfy the requirements of Public Law 88-108; the District Court held that it did. Bhd. of Locomotive Firemen & Enginemen v. Chicago, Burlington & Quincy R. C. Co., *supra* n. 1. The BRT's identical claim in this litigation, therefore, is determined by considerations of *res judicata*. The fact that it apparently did not urge this particular theory of illegality at the time of its impeachment action is, of course, irrelevant. A party may not litigate one issue and then, upon an unsuccessful disposition, revivify the same cause of action with a new theory. In any case, the BRT must have

the BRT's question with respect to what its Award required is determined by Section 9 of the Railway Labor Act and is therefore quite limited. It is sufficient to note that Appellant will not be heard to make these arguments at this late date.

The Special Boards of Adjustment were convened in the spring of 1964. Appellant refused to participate "on the ground that . . . final judgment of the court had not been entered in the proceeding which had been instituted to impeach the Award of Arbitration Board 282."[6] Although its motive is irrelevant, it is interesting to note that Appellant refused to participate in the proceedings even after the Award had been revised and the Supreme Court had denied it a writ of certiorari.

Having thus purposefully refused to participate, it now complains because the evidence was not taken under oath and transcripts not prepared by the Special Boards. Procedural objections to the action of an administrative agency or trial court must be timely made to give the tribunal an opportunity to correct the error, if error there be; such contentions cannot first be made on appeal.[7] It

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been aware at that time of the theory it now urges. It argued that Board 282 lacked authority to require the parties to bear the expenses of the neutral members on the local Special Boards since the parties had agreed to permit the government to bear the cost; yet it surely must have known that Section 7 Third (e) of the Railway Labor Act requires the government to pay. It was in a position, therefore, to realize that Board 282's Award did not call for the local Special Boards to act pursuant to the Railway Labor Act. There is no basis for the argument that the BRT could assume that the local Special Boards would be conducted in accordance with the Railway Labor Act and that the divergence from that Act was not in the Award but in the later actions of the Special Boards.

[6] It says that its refusal to participate was also based on the railroads' notices being more general than what was permitted by the Award; its record citations, however, do not support this.

[7] *E.g.*, United States v. Tucker Truck Lines, Inc., 344 U. S. 33, 37 (1952); Bower v. Eastern Airlines, Inc., 214 F. 2d 623, 627 (3d Cir.), *cert. denied*, 348 U. S. 871 (1954); United States

is imperative to an efficient and fair administration of justice that a litigant may not withhold his objections, await the outcome, and then complain that he was denied his rights if he does not approve the resulting decision.

But even more than that is involved here. Appellant is not lamenting merely about alleged procedural defects which it should have raised earlier; it is complaining about a lack of certain procedures which were *made irrelevant by its purposeful absence.* The Special Boards of Adjustments were limited, by Appellant's absence, to receiving documentary evidence submitted by the carriers. Since Appellant was not present to challenge the carriers, there was no occasion for a formal hearing in the usual sense; there was, therefore, no one to whom to give an oath and no testimony to transcribe. A party may not allege on appeal as error an action which he had induced the tribunal to take;[8] by boycotting the Special Boards of Adjustment, the Appellant did not merely induce the alleged errors but also made them necessary if the disputes were to be settled promptly.

Appellant's arguments that conditions caused by its refusal to participate require reversal of the awards is nothing more than another way of saying that it should

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v. Five Cases, 179 F. 2d 519, 523 (2d Cir.), *cert. denied*, 339 U. S. 963 (1960). Indeed in our earlier consideration of the question of the applicability of the Railway Labor Act to the Special Boards of Adjustment, when we suggested presenting the problem to Board 282, we noted, "Courts will not lightly view a party's failure to request certain procedural rights, or even refrain from participation only thereafter to await the outcome and then challenge an unfavorable result." Bhd. of R. R. Trainmen v. Certain Carriers, 121 U. S. App. D. C. 230, 232, 349 F. 2d 207, 209 n. 7 (1965).

[8] *E.g.*, Bowman v. Curt G. Joa, Inc., 361 F. 2d 706, 716 (4th Cir. 1966); Cranston Print Works Co. v. Public Service Co., 291 F. 2d 638, 649 (4th Cir. 1961); Livingston v. Shreveport-Texas League Baseball Corp., 128 F. Supp. 191, 203 (W. D. La. 1955), *aff'd*, 228 F. 2d 623 (5th Cir. 1956).

have complete veto power over the operation of these public Boards by the simple device of declining participation.

*Affirmed.*

Wright, *Circuit Judge,* dissents for the reasons stated in his dissenting opinion in Nos. 20212 and 20213, *Brotherhood of Railroad Trainmen* v. *St. Louis Southwestern Railway Company and Ralph T. Seward,* filed today.

## APPENDIX B.

### Dissenting Opinion Below.

Wright, *Circuit Judge, dissenting:* Public Law 88-108[1] provides for compulsory arbitration of two issues in the labor dispute between the railroads and the union: the use of firemen on locomotives, and the so-called crew consist issue. Thus, as to these issues, Congress took the unprecedented action of denying the union the right to strike. Conscious of the seriousness of its action, however, Congress provided adequate due process safeguards. It required that the proceedings before the compulsory arbitration Board "shall be conducted pursuant to sections 7 and 8 of the Railway Labor Act." Public Law 88-108, § 4.

Proceeding pursuant to the mandatory provisions of Sections 7 and 8 of the Railway Labor Act,[2] the compulsory arbitration Board resolved the fireman issue. With reference to the crew consist issue, it decided that local arbitration boards would be created to resolve this issue on a local basis, the action of the local boards to be reviewed by the national Board.

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[1] 77 Stat. 132 (1963), 45 U. S. C., § 157 (1964).

[2] 45 U. S. C. §§ 157-158 (1964).

There is, of course, no provision in the Act for creation of local boards, but this action on the part of the national Board has been approved by this court.[3] What this court did not approve was the delegation of the national Board's authority to the local boards without the due process safeguards required by the Act, *i. e.*, Sections 7 and 8 of the Railway Labor Act.

Appellees admit that the proceedings before the local boards in these cases have not been conducted pursuant to Sections 7 and 8 of the Railway Labor Act, and the union is here complaining the local boards' failure so to proceed. Since Congress, in requiring the union to submit to compulsory arbitration, deemed the Sections 7 and 8 safeguards necessary for proceedings before the national Board, it is inconceivable to me that the national Board may legally delegate its authority to local boards without such safeguards.[4]

I respectfully dissent.

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[3] See *Brotherhood of Loc. Firemen & Enginemen v. Chicago, Burlington & Quincy R. Co.*, D. D. C., 225 F. Supp. 11, *affirmed*, 118 U. S. App. D. C. 100, 331 F. 2d 1020, *cert. denied*, 377 U. S. 918 (1964).

[4] The majority's ruling that this issue is precluded by *res judicata* because of our decision in *Brotherhood of Loc. Firemen & Enginemen v. Chicago, Burlington & Quincy R. Co., supra* Note 3, is difficult to understand. When this case was last before this court, *Brotherhood of Railroad Trainmen v. Certain Carriers, etc.*, 121 U. S. App. D. C. 230, 349 F. 2d 207 (1965), the *res judicata* argument was thoroughly explored in the briefs of these same parties. This court at that time remanded the Sections 7 and 8 safeguards issue to the Board. 121 U. S. App. D. C. at 233, 349 F. 2d at 210. I cannot believe this court intended the Board and these parties to waste their time debating an issue the majority now decides has been closed to debate since 1964.

## APPENDIX C.

### Judgment Below.

Before: Bastian, Senior Circuit Judge, and Burger and Wright, Circuit Judges.

### Judgment.

These cases came on to be heard on the records on appeals from the United States District Court for the District of Columbia, and were argued by counsel.

On Consideration Whereof, it is ordered and adjudged by this court that the order of the District Court appealed from in these cases is hereby affirmed.

Per Circuit Judge Burger.

Dated: May 19, 1967.

Circuit Judge Wright dissents for the reasons stated in his dissenting opinion filed today in Nos. 20,212 and 20,213, *Brotherhood of Railroad Trainmen v. St. Louis Southwestern Railway Company and Ralph T. Seward.*

## APPENDIX D.

### Judicial Code.

### 28 USC 1254 (1), 62 Stat. 928.

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.

### Public Law 88-108.

"Sec. 2. There is hereby established an arbitration board to consist of seven members.

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"Sec. 3. The arbitration board shall make a decision, pursuant to the procedures hereinafter set forth.

* * * * * * * *

"Sec. 4. To the extent not inconsistent with this joint resolution the arbitration shall be conducted pursuant to sections 7 and 8 of the Railway Labor Act, the board's award shall be made and filed as provided in said sections and shall be subject to section 9 of said Act. The United States District Court for the District of Columbia is hereby designated as the court in which the award is to be filed, and the arbitration board shall report to the National Mediation Board in the same manner as arbitration boards functioning pursuant to the Railway Labor Act.

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**Railway Labor Act, Sec. 7.**

**(b) Organization of board; procedure.**

The board of arbitration shall organize and select its own chairman and make all necessary rules for conducting its hearings: *Provided, however,* That the board of arbitration shall be bound to give the parties to the controversy a full and fair hearing, which shall include an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may respectively elect.

**(c) Duty to reconvene; questions considered.**

Upon notice from the Mediation Board that the parties, or either party, to an arbitration desire the reconvening of the board of arbitration (or a subcommittee of such board of arbitration appointed for such purpose pursuant to the agreement to arbitrate) to pass upon any controversy over the meaning or application of their award, the board, or its subcommittee, shall at once reconvene. No question other than, or in addition to, the questions re-

lating to the meaning or application of the award, submitted by the party or parties in writing, shall be considered by the reconvened board of arbitration or its subcommittee.

Such rulings shall be acknowledged by such board or subcommittee thereof in the same manner, and filed in the same district court clerk's office, as the original award and become a part thereof.

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(e) **Compensation and expenses.**

Each member of any board of arbitration created under the provisions of this chapter named by either party to the arbitration shall be compensated by the party naming him. Each arbitrator selected by the arbitrators or named by the Mediation Board shall receive from the Mediation Board such compensation as the Mediation Board may fix, together with his necessary traveling expenses and expenses actually incurred for subsistence, while serving as an arbitrator.

(f) **Award; disposition of original and copies.**

The board of arbitration shall furnish a certified copy of its award to the respective parties to the controversy, and shall transmit the original, together with the papers and proceedings and a transcript of the evidence taken at the hearings, certified under the hands of at least a majority of the arbitrators, to the clerk of the district court of the United States for the district wherein the controversy arose or the arbitration is entered into, to be filed in said clerk's office as hereinafter provided. The said board shall also furnish a certified copy of its award, and the papers and proceedings, including testimony relating thereto, to the Mediation Board to be filed in its office; and in addition a certified copy of its award shall be filed in the office of the Interstate Commerce Commis-

sion: *Provided, however,* That such award shall not be construed to diminish or extinguish any of the powers or duties of the Interstate Commerce Commission, under the Interstate Commerce Act, as amended.

**(g) Compensation of assistants to board of arbitration; expenses; quarters.**

A board of arbitration may, subject to the approval of the Mediation Board, employ and fix the compensation of such assistants as it deems necessary in carrying on the arbitration proceedings. The compensation of such employees, together with their necessary traveling expenses and expenses actually incurred for subsistence, while so employed, and the necessary expenses of boards of arbitration, shall be paid by the Mediation Board.

Whenever practicable, the board shall be supplied with suitable quarters in any Federal building located at its place of meeting or at any place where the board may conduct its proceedings or deliberations.

**(h) Testimony before board; oaths; attendance of witnesses; production of documents; subpoenas; compulsion of witnesses; fees.**

All testimony before said board shall be given under oath or affirmation, and any member of the board shall have the power to administer oaths or affirmations. The board of arbitration, or any member thereof, shall have the power to require the attendance of witnesses and the production of such books, papers, contracts, agreements, and documents as may be deemed by the board of arbitration material to a just determination of the matters submitted to its arbitration.

* * * * * * *

(k) Shall provide that the award of the board of arbitration and the evidence of the proceedings before the board relating thereto, when certified under the hands of at least a majority of the arbitrators, shall be filed in the clerk's office of the district court of the United States for the district wherein the controversy arose or the arbitration was entered into, which district shall be designated in the agreement; and, when so filed, such award and proceedings shall constitute the full and complete record of the arbitration;

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(m) Shall provide that any difference arising as to the meaning, or the application of the provisions, of an award made by a board of arbitration shall be referred back for a ruling to the same board, or, by agreement, to a subcommittee of such board; and that such ruling, when acknowledged in the same manner, and filed in the same district court clerk's office, as the original award, shall be a part of and shall have the same force and effect as such original award; and

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**Award and judgment thereon; effect of chapter on individual employee—Filing of award.**

First. The award of a board of arbitration, having been acknowledged as herein provided, shall be filed in the clerk's office of the district court designated in the agreement to arbitrate.

**Conclusiveness of award; judgment.**

Second. An award acknowledged and filed as herein provided shall be conclusive on the parties as to the merits and facts of the controversy submitted to arbitration, and unless, within ten days after the filing of the award, a petition to impeach the award, on the grounds hereinafter set forth, shall be filed in the clerk's office of the court in which the award has been filed, the court shall enter judgment on the award, which judgment shall be final and conclusive on the parties.

**Impeachment of award; grounds.**

Third. Such petition for the impeachment or contesting of any award so filed shall be entertained by the court only on one or more of the following grounds:

(a) That the award plainly does not conform to the substantive requirements laid down by this chapter for such awards, or that the proceedings were not substantially in conformity with this chapter;

(b) That the award does not conform, nor confine itself, to the stipulations of the agreement to arbitrate; or

(c) That a member of the board of arbitration rendering the award was guilty of fraud or corruption.

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**Effect of partial invalidity of award.**

Fourth. If the court shall determine that a part of the award is invalid on some ground or grounds designated in this section as a ground of invalidity, but shall determine that a part of the award is valid, the court shall set aside the entire award: *Provided, however,* That, if the parties shall agree thereto, and if such valid and invalid parts are separable, the court shall set aside the invalid part, and order judgment to stand as to the valid part.

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## APPENDIX E.

United States Court of Appeals
for the District of Columbia Circuit.

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No. 20,348.
No. 20,349.

Brotherhood of Railroad Trainmen,
Appellant,

v.

Chicago, Milwaukee, St. Paul and Pacific
Railroad Company (Lines East), et al.,
Appellees.

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Appeal from the United States District Court
for the District of Columbia.

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Decided July 27, 1967.

Before: Bastian, *Senior Circuit Judge*, and Burger and Wright, *Circuit Judges*.

Per Curiam: This is another "manisfestation of a litigation syndrome that seems to keep the railroads and various governmental entities in the courts on an ancient issue." *Brotherhood of Railroad Trainmen v. Chicago, Milwaukee, St. Paul & Pacific Railroad Co.*, ... U. S. App. D. C. ..., ..., ... F. 2d ..., ... (Nos. 19,867, 20,003-04, decided May 19, 1967, slip op. p. 1). Issues raised in these appeals have been before this court previously in *Brotherhood of Railroad Trainmen v. Chicago, Milwaukee, St. Paul & Pacific Railroad Co., ibid.*, and *Brotherhood of Railroad Trainmen v. St. Louis Southwestern Railway Co., et al.*, ... U. S. App. D. C. ..., ... F. 2d ..., ... (Nos. 20,212-13, decided May 19, 1967). Our prior opinions are controlling and dispositive of

these issues and there is no need to supplement those opinions.

In addition, however, Appellant Brotherhood raises a new claim in these appeals. It now contends that the hearing before the Special Board of Adjustment did not afford it due process of law because of certain alleged procedural irregularities not heretofore considered.[1] Although these issues were exhaustively discussed and found to be without merit in Judge Robinson's original decision in the District Court, *Brotherhood of Railroad Trainmen v. Chicago, Milwaukee, St. Paul & Pacific Railroad Co.*, 237 F. Supp. 404, 418-25 (D. D. C. 1964), we remanded that case to Board 282 in order that it might pass upon these issues. *Brotherhood of Railroad Trainmen v. Chicago, Milwaukee, St. Paul & Pacific Railroad Co.*, 120 U. S. App. D. C. 295, 345 F. 2d 985 (1965). The Board concluded that the alleged procedural irregularities, considered singly or together, did not deprive the B. R. T. of the minimum essentials of a full and fair hearing.

We have previously upheld the Board determination that due process was not violated by lack of a transcript; we similarly affirmed the Board decision that a "meaningful review" had been provided. Although it would appear that the specific defects raised here are subsumed within the due process concept of "meaningful review" we did not discuss them in our prior opinions. We have now fully examined the claim newly raised on this appeal, and we find it to be without merit.

*Affirmed.*

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[1] Specifically the union claims that it was impossible to decide the job assignments in 60 days; that the hearing held in the company offices was inherently unfair and offered little time or space for interviews with witnesses; that there was a failure to allow a reasonable time to submit written exhibits; that the "referee" was not neutral; and that the "findings" were prepared by the company and submitted to the referee for approval.

Wright, *Circuit Judge, dissenting:* Public Law 88-108[1] provides that the compulsory arbitration required in this case "shall be conducted pursuant to sections 7 and 8 of the Railway Labor Act." Pub. L. 88-108, § 4. As I have indicated in my dissents in *Brotherhood of Railroad Trainmen v. St. Louis Southwestern Railway Co., et al.*, Nos. 20,212-3, and *Brotherhood of Railroad Trainmen v. Chicago, Milwaukee, St. Paul & Pacific RR Co., et al.*, Nos. 19,867, 20,003 and 20,004, decided May 19, 1967, the Compulsory Arbitration Board convened pursuant to Public Law 88-108 cannot avoid this statutory requirement by delegating portions of its authority to local boards.

In these cases appellant makes the additional point that the local board deprived it of the minimum essentials of a full and fair hearing in that, among other things, it was denied a reasonable opportunity to prepare its case, to call witnesses, and to conduct cross-examination. The company, of course, argues that the board hearing was full and fair. Since, in violation of Section 7 of the Railway Labor Act[2] and in spite of appellant's request, no transcript of the proceedings before the local board was provided, I am unable to resolve this due process issue on this record.

I respectfully dissent.

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[1] 77 Stat. 132 (1963), 45 U. S. C., § 157 (1964).

[2] 45 U. S. C., § 157 (1964).

## APPENDIX F.

**Excerpt From Pages 10 and 11 of Brief for Appellees in Brotherhood of Railroad Trainmen, Appellant, v. Certain Carriers Represented by the Eastern, Western & Southeastern Carriers Conference Committees, and Particularly the Missouri Pacific Railroad Company, Natchez & Southern Railway Company and the Texas & Pacific Railroad Company, Appellees, No. 18,844 in the United States Court of Appeals for the District of Columbia Circuit, 349 F. 2d 207 (1965).**

"When the carriers, after January 25, 1964, commenced initial steps looking toward the putting into effect of provisions of the Award of Arbitration Board No. 282, numerous questions were raised with respect to the correct interpretation of various provisions of that Award. Both the carriers and the labor organizations, including the BRT, requested the Arbitration Board to reconvene to pass upon specified questions said to involve disputes by the parties as to meaning and application of the Award.

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"Question No. 21, submitted by the BRT on May 21, 1964, reads:

"Is our understanding correct that special boards of adjustment established pursuant to the award of Arbitration Board 282, Section III, Part B, having no procedure stipulated by agreement, must therefore conduct their arbitration pursuant to Sections 7 and 8 of the Railway Labor Act, to the extent that said sections are not inconsistent with Public Law 88-108, and that the awards of those special boards are subject to Section 9 of the Railway Labor Act?"

The Board on September 16, 1964, declined to answer this question and referred the parties to the decision in this case to the court below."

## APPENDIX G.

**Pages 62-65 of the Joint Appendix in Brotherhood of Railroad Trainmen, et al., Appellants, v. The Akron & Barberton Belt Railroad Company, et al., Appellees, Number 20,152, in the United States Court of Appeals for the District of Columbia Circuit.**

### Stipulation as to Facts.

The undersigned parties hereby stipulate and agree, by and through counsel, for the purpose of this case as follows:

A. A number of awards have been made by special boards of adjustment constituted pursuant to Article III of the Award by Arbitration Board No. 282. Such special board awards include those listed below relating to plaintiffs in this proceeding:

| *Carrier* | *Organization* | *Date* |
|---|---|---|
| Atchison, T. & S. F. R. Co. and Panhandle & S. F. R. Co.[1] | BRT | Sept. 10, 1965 |
| Atchison, T. & S. F. R. Co. | BRT | Jan. 13, 1966 |
| Atlantic Coast Line R. Co. | BRT | Nov. 24, 1964 |
| Bangor & Aroostock Railroad Co. | BRT | May 29, 1964 |
| Belt R. Co. of Chicago | BRT | July 21, 1964 |
| Belt R. Co. of Chicago | BRT | Jan. 5, 1966 |
| Boston & Maine Corporation | BRT | Oct. 1, 1964 |
| Buffalo Creek Railroad Co.[2] | SUNA | June 23, 1965 |
| Camas Prairie Railroad Co. | SUNA | Sept. 8, 1965 |
| Chesapeake & Ohio R. Co. | BRT | Sept. 2, 1965 |
| Chesapeake & Ohio R. Co. | BRT | Oct. 20, 1965 |

[1] The Panhandle & Santa Fe Railway Co. is now part of the Atchison, Topeka and Santa Fe Railway Co.

[2] The listing herein of the award, by a special board of adjustment with respect to the Buffalo Creek Railroad Co. and the SUNA is without prejudice to the position of either party in *Switchmen's Union of North America, et al. v. Buffalo Creek Railroad Co., et al.*, Civil Action No. 11,422, now pending in the United States District Court for the Western District of New York.

| *Carrier* | *Organization* | *Date* |
|---|---|---|
| Chicago & Eastern Illinois R. Co. | BRT | Jan. 17, 1966 |
| Chicago, M. St. P. & P. R. Co. (Award No. 1) | BRT | July 10, 1964 |
| Chicago, M. St. P. & P. R. Co. (Award No. 2) | BRT | July 10, 1964 |
| Chicago, M. St. P. & P. R. Co. | BRT | Aug. 28, 1964 |
| Chicago, M. St. P. & P. R. Co. | BRT | Dec. 9, 1964 |
| Chicago, M. St. P. & P. R. Co. and The Kansas City Southern R. Co. (Milwaukee-Kansas City Southern Joint Agency) | BRT | Dec. 30, 1964 |
| Chicago & North Western R. Co.: | | |
| CSTPM&O District—Award No. 1 | BRT | Aug. 27, 1964 |
| CSTPM&O District—Award No. 2 | BRT | Aug. 27, 1964 |
| L&M District—Award No. 1 | BRT | Aug. 27, 1964 |
| M&STL District—Award No. 1 | BRT | Aug. 27, 1964 |
| C&NW District—Award No. 1 | BRT | Aug. 31, 1964 |
| C&NW District—Award No. 2 | BRT | Aug. 31, 1964 |
| C&NW District—Award No. 3 | BRT | Aug. 31, 1964 |
| C&NW District—Award No. 4 | BRT | Aug. 31, 1964 |
| M. I. District—Award No. 1 | BRT | Aug. 31, 1964 |
| M&STL District—Award No. 1 | SUNA | Aug. 27, 1964 |
| Chicago, Rock Island & P. R. Co. | SUNA | Sept. 15, 1964 |
| Chicago, Rock Island & P. R. Co. | SUNA | Nov. 20, 1965 |
| Chicago & W.I.R. Co. | BRT | Dec. 12, 1964 |
| Cincinnati Union Terminal Co. | BRT | Aug. 3, 1965 |
| Clinchfield R. Co. | SUNA | Aug. 26, 1965 |
| Colorado & Southern R. Co. | BRT | July 21, 1964 |
| Davenport, R. I. & N. W. R. Co. | SUNA | Aug. 27, 1964 |
| Ft. Worth & Denver R. Co. | BRT | May 20, 1964 |
| Ft. Worth & Denver R. Co. | SUNA | May 27, 1964 |
| Great Northern R. Co. | SUNA | Dec. 2, 1965 |

| *Carrier* | *Organization* | *Date* |
|---|---|---|
| Green Bay & Western Railroad Co. and Kewanee, Green Bay & Western Railroad Co. | BRT | Jan. 25, 1966 |
| Illinois Central R. Co. | BRT | Sept. 14, 1964 |
| Illinois Central R. Co. | BRT | Nov. 30, 1964 |
| Illinois Central R. Co. | BRT | Feb. 26, 1965 |
| Illinois Central R. Co. | BRT | Oct. 26, 1965 |
| Jacksonville Terminal Co. | BRT | Nov. 5, 1965 |
| Kansas City Terminal R. Co. | SUNA | Dec. 21, 1964 |
| Kansas City, Oklahoma & G. R. Co. | BRT | June 6, 1964 |
| Kentucky & Indiana T. R. Co. | BRT | Aug. 17, 1964 |
| Kentucky & Indiana T. R. Co. | BRT | Mar. 22, 1965 |
| King Street Passenger Station | BRT | Jan. 4, 1965 |
| Maine Central Railroad Co. | BRT | May 29, 1964 |
| Midland Valley R. Co. | BRT | June 6, 1964 |
| Minnesota, Dakota & Western R. Co. | BRT | Dec. 11, 1965 |
| Missouri-Illinois R. Co. | BRT | Apr. 22, 1964 |
| Missouri-Kansas-Texas R. Co. | BRT | May 14, 1964 |
| Missouri Pacific R. Co. (Northern, Central and Southern Districts) | BRT | May 6, 1964 |
| Missouri Pacific R. Co. (Gulf District) | BRT | May 6, 1964 |
| Natchez & Southern R. Co.[3] Missouri Pacific Railroad Co. | BRT | May 6, 1964 |
| New Orleans & L. C. R. Co. | BRT | May 14, 1964 |
| New Orleans U. P. Terminal | BRT | May 23, 1964 |
| Norfolk & Western R. Co. | BRT | Jan. 5, 1966 |
| Norfolk & Western R. Co. | BRT | Jan. 7, 1966 |
| Norfolk & Western R. Co. | BRT | Jan. 21, 1966 |

[3] The Natchez and Southern Railway Co. is now a part of the Missouri Pacific Railroad Co.

| *Carrier* | *Organziation* | *Date* |
|---|---|---|
| Northern Pac. T. Co. of Oregon[4] | SUNA | July 15, 1965 |
| Port Terminal R. Ass'n | BRT | May 14, 1964 |
| Reading Company (Case No. 1) | BRT | Nov. 19, 1965 |
| Reading Company (Case No. 2) | BRT | Nov. 19, 1965 |
| Richmond, F. & P. R. Co. | BRT | Jan. 20, 1966 |
| St. Louis Southwestern R. Co. | BRT | July 14, 1964 |
| St. Louis & S. F. R. Co. | BRT | June 6, 1964 |
| St. Paul Union Depot Co. | SUNA | Nov. 1, 1965 |
| St. Paul Union Depot Co. | SUNA | Jan. 24, 1966 |
| Southern Pacific Co. | BRT | June 4, 1964 |
| Southern Pacific Co. | SUNA | Sept. 8, 1964 |
| Southern Pacific Co. | SUNA | June 17, 1965 |
| Southern Pacific Co. | SUNA | Nov. 22, 1965 |
| Spokane, P. & S. R. Co. | BRT | Nov. 15, 1965 |
| Terminal R. Ass'n of St. L. | BRT | Oct. 16, 1964 |
| Texas & Pacific R. Co.[5] | BRT | May 6, 1964 |
| Texas Pacific-Missouri Pacific Term. R. Co. of N. O. | SUNA | May 16, 1964 |
| Union Railway Co. | BRT | May 14, 1964 |
| Union Term. & St. J. Belt R. Cos. | BRT | May 15, 1964 |
| Wabash Railroad Co.[6] | BRT | Undated |
| Washington Terminal Co. | BRT | Oct. 15, 1964 |
| Washington Terminal Co. | BRT | Nov. 26, 1965 |

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[4] The Northern Pacific Terminal Company of Oregon now is the Portland Terminal Railroad Company.

[5] The special board award also applies to subsidiaries of the Texas & Pacific Railway Company—Abilene & Southern Railway, Fort Worth Belt Railway Co., Texas-New Mexico Railway Co. and the Weatherford, Mineral Wells & North Western Railway Co.

[6] The Wabash Railroad Co. is now a part of the Norfolk and Western Railway Co.